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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/081,781	02/20/2002	Todd H. Young ~	32421	2719

9629 7590 12/31/2003
MORGAN LEWIS & BOCKIUS LLP
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WASHINGTON, DC 20004

EXAMINER

MORAN, KATHERINE M

ART UNIT PAPER NUMBER

3765

DATE MAILED: 12/31/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/081,781

Applicant(s)

YOUNG, TODD H. CN

Examiner

Katherine M Moran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-16 is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 15 October 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

Applicant's amendment of 10/15/03 has been received and reviewed. Applicant has submitted proposed drawing replacement sheets, amended claims 1, 7, 13, and 15.

Drawings

1. The drawing replacement sheets were received on 10/15/03. The headings of Figures 6-10 on the second replacement sheet were not labeled in red as required for proposed drawing changes. The Examiner outlined these changes in red ink. Accordingly, formal drawings will be required upon allowance.

Claim Objections

2. Claims 1 and 3 are objected to because of the following informalities: Claim 1 recites end segments interconnected by a stitch, whereas claim 3 recites end segments secured by a plurality of stitches. Thus, these claim recitations appear to be contradictory. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Clark (U.S. 5,554,076). Clark '076 discloses the invention as claimed. Clark teaches a thumb guard 10 comprising an elongated strap formed of flexible, resilient and padded material, with the body defining a tubular, tapered, open-ended, thumb-receiving passageway having a relatively large open end and an opposed, relatively small open end. The padded material has a thickness of about 1/8". The strap has a width that does not vary more than by a factor of two. Overlapping end segments 34,36 are fixedly secured via stitching 40 to define the thumb-receiving passageway forms the tubular shape. The guard is configured so that when placed on a thumb by passing the thumb into the passageway through the relatively large open end, portions of the guard proximal the open end cover and thereby protect the metacarpophalangeal joint of the thumb from undue stresses.

Response to Arguments

5. Applicant's arguments with respect to claims 1-6 have been considered but are moot in view of the new ground(s) of rejection. Applicant's arguments with respect to claims 7-16 have been fully considered and are persuasive. The rejection of claims 7-16 has been withdrawn.

Allowable Subject Matter

6. Claims 7-13 are allowed.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications should be directed to Examiner Katherine Moran at (703) 305-0452. The examiner can be reached on Monday-Thursday from 8:30 am to 6:00 pm, and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert, may be reached at (703) 305-1025. The official fax number for the organization where this application is assigned is (703) 872-9302. The after final fax number for this organization where this application is assigned is (703) 872-9303.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist at (703) 308-1148.


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Kmm

December 19, 2003

A handwritten signature in cursive script that reads "Katherine Moran".

Katherine Moran

Examiner, AU 3765

A handwritten signature in cursive script that reads "John J. Calvert".

JOHN J. CALVERT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700